

Conflict Resolution Policy for Faculty

DRAFT

April 26, 2005

NOTE: Changes made by either the Provost's Council on 4-13-2005 or the faculty senate TPG Committee on 4-20-2005 are shown in italicized and underlined red font.

PURPOSE

The purpose of this policy is to afford TCU faculty a prompt and fair method for the resolution of work-related problems or disputes and to encourage informal dispute resolution through discussion and mediation.

DEFINITIONS

Dispute or grievance is a complaint or concern voiced by any faculty member regarding a condition of employment or the application, meaning, or interpretation of policies or procedures as they affect work activity. Issues related to faculty tenure, promotion and/or reappointment are not considered under this policy. Step 4 of this policy applies only to non-tenure track faculty members.

Disputants are the parties to a dispute. Any party to the dispute may exercise appeal procedures available within this process.

Conflict Resolution Facilitator (CRF) is an appointed neutral party who assists the disputant and serves as an impartial listener and problem solver in the conflict resolution process. The CRF does not serve as an advocate for any party. The CRF is appointed by the Chancellor, in consultation with the Provost, Associate Vice Chancellor for Human Resources, the Chair of the Faculty Senate, and the Chair of the Staff Assembly. Persons serving in this capacity will be trained mediators and fully conversant with all aspects of federal and state employment laws as well as TCU policies and procedures.

A *mediator* is a neutral third party who listens to both sides of a dispute. A mediator, however, does not issue a decision but rather assists all parties to the conflict to reach their own settlement. The CRF will typically appoint two mediators when mediation is required. All TCU Mediators will receive 40 hours of training in compliance with Title 7, Chapter 154, Texas Civil Practice and Remedies Code (Appendix A), and consistent with the Texas Mediation Trainer Roundtable Annotated Standards (Appendix B). The mediators must abide by the Standards of Practice established by the Texas Association of Mediators (Appendix C) and the Ethical Guidelines for Mediators established by the State Bar of Texas Alternative Dispute Resolution Section (Appendix D).

Time limits refer to business days during the academic calendar. Outside of the academic calendar (e.g., during summer months), the parties and/or mediators may, if necessary and after consultation with the CRF, extend the time limits of the process.

Peer Review Board members serve on appointed panels to hear and render a ruling on the dispute, subject to review by the Provost. Board members consist of TCU faculty and administrators representing a variety of campus areas. Members of the Peer Review Board may self-nominate, be nominated, or be asked by the CRF to serve. Any individual appointed to the Peer Review Board must undergo training as specified by the CRF prior to hearing a dispute.

A *Peer Review Panel*, consisting of 3 members appointed by the CRF from the Peer Review Board, hears and renders a final ruling on a dispute (subject to review by the Provost) if a dispute proceeds to Step 3 of the process.

POLICY OVERVIEW

This policy is available to any TCU faculty member. The process begins with a faculty member informally discussing concerns with the appropriate supervisor. This step may be followed by an appeal to the TCU Conflict Resolution Facilitator (CRF), who may, after consultation with a member of the TCU Mediators Committee, refer the conflict to mediation. If mediation is unsuccessful, the dispute may be submitted to a Peer Review Panel and the Provost for resolution and final review. Only employment dismissal decisions may be appealed beyond the Peer Review Panel and Provost to the Chancellor. During this conflict resolution process, any party to a dispute, including mediators, Peer Review Panel, disputants, the Provost, or the Chancellor, may request an extension of a time limit from the CRF, who upon finding sufficient cause, may grant an extension of a specific length of time.

ADMINISTRATIVE RESPONSIBILITY

Academic Affairs is responsible for administering and interpreting this policy.

PROCEDURE

Step 1: Informal Discussion

Faculty members are first encouraged to discuss any work-related problem with their supervisor.

If not satisfied with the supervisor's response, the faculty member is encouraged to contact the CRF. If the faculty member is uncomfortable speaking to their supervisor, the CRF may be contacted directly.

The CRF is available to help *faculty* with any work-related problem, concern, or issue. Notification and/or appointments with the CRF are made by calling 257-5015 or sending an e-mail to crf@tcu.edu. Appointments will be set within 24 hours. *Faculty* may request the opportunity to present to the CRF any evidence and names of witnesses who can support his or her position. All calls to and appointments with the CRF are strictly confidential unless a violation of law requires disclosure.

If the CRF is unable to assist the disputants in successfully resolving the conflict within 5 days after the initial appointment, the person initiating the grievance may proceed to Step 2.

Any dispute that results in retaliation or adverse consequences to any party to the conflict resolution process will be referred by the CRF to a Peer Review Panel at Step 3 of this process.

Step 2: Mediation

If the conflict cannot be resolved at Step 1, the disputant may submit a written notification (fax, e-mail, or mail) to the CRF requesting mediation of the dispute. The CRF or person to whom any disputant reports may also refer the case to mediation. The appointment of mediators by the CRF shall take place within three days of notification of a request for mediation. *The CRF shall consult the disputants regarding the assignment of staff and/or faculty mediators.* The mediation will be scheduled and conducted within 10 days. If necessary and agreed to by both disputants, mediators may request additional time to complete the mediation. If mediation resolves the dispute, the case will be closed and the CRF notified in person or in writing (fax, e-mail, or mail) by the mediators. The mediators shall seal the written agreement and forward it to the CRF. Failure to comply with the mediation agreement may be reported in writing by either party to the CRF.

If the parties to the dispute are unable to reach a resolution through mediation, the mediators shall immediately inform the CRF that the parties have reached an impasse. The disputants will be instructed by the mediators at this time to explain the dispute in writing.

All conversations held and notes made during mediation will be kept confidential by all parties. Written agreements are considered contracts and, therefore, subject to contractual law that may include disclosure on a need to know basis.

Step 3: Peer Review Panel/Provost Review

If resolution or a settlement agreement is not reached in mediation, any party may request Peer Review within 5 days of the mediation conclusion. Within 5 days of this request, the CRF shall appoint three members from the Peer Review Board to a Peer Review Panel and designate one member Chair of the Panel.

Peer Review Panels shall be representative of the positions of disputants (e.g., faculty-faculty disputants, faculty-administrator disputants). Prior to this appointment the CRF will share the Peer Review Board list with disputants and ask them to nominate names from the Peer Review Board list. The CRF reserves the right to make the final appointment of members to the Peer Review Panel and to designate the Chair of the Panel.

The Chair will schedule and conduct a hearing within 10 days of the date of the appointment of the Panel and then notify all parties to the dispute of the date, time and place for the hearing. Within three days of the hearing's conclusion, the Chair of the Peer Review Panel will submit a written decision to the Provost for final review. The Provost will have three days to review, concur and/or modify, and finalize the Panel's decision. The Provost will notify the Chair in writing of his decision. Within two days of receipt of the Provost's written review of the Panel's decision, the Chair will issue a final, written ruling to all parties to the dispute and notify the CRF in writing of the final decision. Disputes involving dismissal, however, may be appealed to the Chancellor.

The Peer Review Panel will permit representation by the parties; however, representatives may serve only in an advisory role. The Peer Review Panel Chair will determine the level of involvement permitted to the representative. Witness testimony will be allowed.

Step 4: Chancellor's Review of Dismissal Appeals

Step 4 is available only to non-tenure track faculty who are appealing non reappointment decisions. If the Provost upholds the dismissal of the faculty member or if a dismissal decision is overturned, any party may appeal to the Chancellor by notifying the CRF in writing no later than 5 days after receipt of the final decision by the Chair of the Peer Review Panel. The CRF shall submit to the Chancellor the Panel's written decision within 3 days of the request. The Chancellor shall issue a final ruling within ten days of the receipt of the written findings of the Panel. The Panel's written ruling and review by the Provost shall constitute the record for the review by the Chancellor.

SUMMARY OF FACULTY CONFLICT RESOLUTION PROCESS

STEP 1: INFORMAL DISCUSSION

- The faculty member and supervisor discuss the conflict and attempt to resolve the issues informally.
- Conflict Resolution Facilitator (CRF) schedules appointment within 1 day of contact by the disputant.
- CRF has 5 days from the initial appointment to resolve the conflict before proceeding to mediation.

STEP 2: MEDIATION

- CRF assigns mediators to case within 3 days of request.
- Mediators have 10 days, once notified, to conduct mediation.
- Mediators may request an extension of time to complete mediation.
- If settled, mediator submits agreement to CRF for safekeeping.
- If impasse results, CRF is notified in writing.

STEP 3: PEER REVIEW PANEL/PROVOST REVIEW

- CRF has 5 days from date of impasse notification to appoint a three-person peer review panel and designate one member to Chair the Panel.
- Panel Chair schedules and conducts the hearing within 10 days of the date of the appointment of the Panel by the CRF.
- Chair has 3 days after Panel hearing to submit the final, written decision to the Provost for review.
- The Provost has 3 days upon notification by the Chair to review, concur and/or modify and finalize the Panel decision.
- The Chair, within 2 days of written notification from the Provost, issues a final, written decision to all parties to the dispute.

STEP 4: CHANCELLOR REVIEW (Dismissal disputes only)

- Parties may appeal the Peer Review Panel and Provost decision to the Chancellor by notifying the CRF within 5 days of receipt of the decision.
- The CRF has 3 days to notify the Chancellor and forward the written Peer Review Panel decision for review by the Chancellor.
- The Chancellor issues a final decision within 10 days of the CRF notification.